Labour Relations in the Construction Industry

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One of the main features of the labour relations system in the Quebec construction industry is the mandatory application to the entire industry of the collective agreement negotiated by employer and union representatives. Working conditions are extended by an order in council or decree. This manner of legalizing the collective agreement has been in use since 1934.

The Construction industry differs from other sectors of economic activity: the limited duration of job sites, the constantly changing requirements as the site evolves, and the mobility that ensues, have all influenced labour relations in this sector. Moreover, employees have developed a sense of belonging to the industry rather than to a particular employer. These factors must therefore be taken into consideration when one studies the evolution of labour relations in the Quebec construction industry, a system unique in North America.

The present text pertains exclusively to labour relations in the construction industry and does not deal with all the subjects covered by the Act respecting labour relations, professional training and manpower management in the construction industry.

HISTORICAL BACKGROUND

From 1934 to 1968, the "Act respecting collective agreement decrees" was used almost exclusively by the negotiating parties of the construction industry to have their agreement officially recognized. The Government would extend the agreement signed by these parties only if they were deemed representative of the industry; this was the only way for the negotiating parties to be recognized as such. These decrees were usually regional in scope and covered all construction trades, except for a few trades governed by provincial decrees.

The administration and supervision of these decrees was left to a joint committee formed by the negotiating parties. Except for the power to legislate the extension of the decree, there was little government intervention.

The Act respecting labour relations in the construction industry

Reacting to inter-union strife in the mid 60's and to the resulting violence, the Government adopted in 1968 the "Act respecting labour relations in the construction industry" or Bill 290, a turning point in labour relations in the industry. The Act and the many modifications it sustained thereafter have considerably changed the rules governing negotiations in the construction industry in Quebec.

The Act basically aimed at stopping union representatives from using two negotiating systems, i.e. (1) legal extension and (2) accreditation, alleviating at the same time the consequences of inter-union strife.

Bill 290 resulted however in greater government intervention and further centralization of labour relations. This is how it modified the system then prevailing.

The Act relieved some of the tensions between union and employer representatives regarding the simultaneous use of legal extension and union certification by stipulating that "an enployees' association in the construction industry cannot be certified...under the Labour Code or conclude a collective agreement under the said Code " (section 3). By excluding the industry from the Labour Code, it gave more inportance to the decree and took a pressure tactic away from the unions.

By including clauses on union security in the decree, the Act enabled the unions to increase their membership rapidly. Union membership then became mandatory in the construction industry. On the other hand the legislator guaranteed workers freedom of choice as to union membership and prohibited any discriminatory hiring practices based on union membership.

Another important aspect of the Act was mandatory bargaining for the entire industry, extending to all trades. Formerly, certain trades such as plumbers, electricians, structural steel erectors and elevator mechanics, negotiated parties and could either be regional or provincial in scope.

A fundamental change brought about by the Act respecting labour relations in the

construction industry was the fact that negotiating parties were specifically named in the Act. By opting for provincial multi-trade representative associations, the legislator extensively modified the negotiating system; this would have a decided impact on the future course of events in the Quebec construction industry.

The legislator recognized on the union side the Confédération des syndicats nationaux (C.S.N.), the Conseil provincial du Québec des métiers de la construction (C.P.Q.M.C.), and the Fédération des travailleurs du Québec (F.T.Q.); on the management side, the Association de la construction de Montréal et du Québec, the Association des constructeurs de routes et de grands travaux, the Association provinciale des constructeurs d'habitations du Québec, the Corporation des maîtres-électriciens, the Corporation des maîtres mécaniciens en tuyauterie and the Fédération de la construction du Québec. Veto power was in fact given to each and every association since there could only be one collective agreement. The C.S.N. and the F.T.Q. therefore had to arrive at an agreement for negotiations to take place, an obligation that will cause major difficulties later on.

Finally, the application and supervision of the decree was not changed, remaining as it was in the hands of the joint committees.

In short, while maintaining the legal extension mechanism, the Act respecting labour relations in the construction industry concentrated the bargaining power in the hands of recognized representative associations.

Amendments

The Act was amended several times during the following years, resulting in some cases in important changes.

1971-1975

In 1971, the Government created under Bill 55 a provincial joint committee, the Commission de l'industrie de la construction (C.I.C.) to see to the enforcement of the decree. It replaced the various regional joint committees while keeping the same powers and still reporting to the bargaining parties.

Bill 55 also provided for the creation of the Comité des avantages sociaux de l'industrie de la construction (C.A.S.I.C.) to administer the pension fund and the various group insurances of the industry. Starting May 1972, the C.I.C. was also responsible for safety inspections on construction site.

Another significant event took place in 1973 with the enactment of Bill 9, which modified the method of evaluating the representativeness of employers and union for bargaining purposes and their representation at the C.I.C. Each association would now be represented according to its importance, the number of hours worked and wages paid by its members. Decisions were subject to double majority rule, that of the unions and the management.

The Act replaced the veto power of the representative associations by the principle of majority rule and conferred negotiating privileges to the sole F.T.Q. since it represented over 50% of the workers. On the management side, no association had the

majority required to make decisions on its own.

Following the ransack of the LG2 job site in March 1974, the Government of Quebec formed the "Commission d'enquête sur l'exercice de la liberté syndicale dans l'industrie de la construction", presided by Judge Robert Cliche. The report of the Cliche Commission, as it came to be known, dealt with violence on all construction sites in the province and the reasons behind the phenomenon, as well as the exercise of freedom of association. The Cliche Commission was a major event in the history of labour relations in the construction industry of Quebec; the reforms that followed would vastly modify the nature of the system.

Chief among its preoccupations were criminal activities, freedom of choice and the structure of labour relations, especially the recognition of the parties, the structures and democracy of management associations, the collective bargaining process and the administration and application of the decree.

The Commission's report prompted the Government to adopt a series of laws that significantly changed the Act respecting labour relations in the construction industry.

Bill 47 was probably the most important outcome of the Commission's work relating to the construction industry labour relations system.

The Cliche Commission condemned the incoherence, insular approach and weaknesses of the employer associations and recommended the creation of a single employer association, the Association des entrepreneurs en construction du Québec (A.E.C.Q.), to which all contractors must now belong. The A.E.C.Q. was not set up as a federation of existing employer associations but rather as an independent association of contractors with a board of directors elected by the members at a general annual meeting. Legally, the A.E.C.Q. is the only association mandated to negotiate and sign a collective agreement with the union representatives.

Another major result of Bill 47 was the creation of the Office de la construction du Québec (O.C.Q.), replacing the Commission de l'industrie de la constuction. The O.C.Q. became responsible for the administration of the decree; it was independent of the negotiating parties who had overseen joint committees of the C.I.C. The Cliche Commission recommended such an important modification because it felt it was unrealistic to ask the parties already in conflict over labour relations to be responsible for the application of such a system. To ensure its autonomy, the Office would be directed by three members appointed by the Government for a ten-year mandate. A joint committee was maintained although acting more on a consulting basis. It does however play a more decisive role where the interpretation of the decree is concerned.

Apart from supervising and administering the decree, the OCQ was also responsible for organizing the union accreditation vote; it collected and redistributed union and management dues and contributions.

The OCQ was also given other important mandates pertaining to the placement of employees, the asministration of fringe benefits and safety on job sites.

As for union representation, Bill 47 maintained union plurality and the principle

of majority rule. Workers could now opt for membership in the union of their choice by secret ballot in a vote organized by the Office de la construction du Québec. The period for recruitment by the various unions was limited to the seventh month preceding the expiry of the decree.

1976-1985

During this period, there were no major changes to the system. In 1978, Bill 52 modified the method of evaluating the representativeness of associations, taking only into consideration the membership vote. By virtue of the Act, an association representing 15% of the vote could sit on the negotiations and submit its demands as to the contents of the collective agreement.

With the passing of Bill 110 in 1979, artisans were no longer subject to the Construction Industry Labour Relations Act. Bill 110 also modified the composition of the board of administration of the OCQ and the AECQ.

Bill 109 again modified the Construction Industry Labour Relations Act in 1980 in order to settle the dispute between international unions affiliated to the Conseil provincial and unions having only a provincial affiliation with the FTQ.

1986-1988

In 1986, Bill 119 extensively modified the Construction Industry Labour Relations Act: it is now known as the "Act respecting labour relations, professional training and manpower management in the construction industry". Taking effect on January 1st, 1987, this act transformed the Office de la construction du Québec into the Commission de la construction du Québec giving greater responsibility to the parties in the administration of the Act, particularly as it pertains to manpower professional training. The board of administration of the CCQ now comprises union and management representatives as well as government officials.

The act has established a number of measures enabling the parties to have more say in professional training, of which a Comité sur la formation professionnelle dans l'industrie de la construction (C.F.P.I.C.) which advises the CCQ on any matters relating to manpower training.

On December 18th, 1987, the National Assembly adopted the Act respecting the Commission des relations de travail and modifying certain legislative provisions. This act created the Commission des relations de travail to take over the responsibilities of the Bureau de commissaire du travail, of the Conseil sur les services essentiels, of the Tribunal du travail and of the Commissariat de la construction. In creating an administrative body rather than a judicial one, the government wished to speed up the solution of labour relations problems. The project was postponed at the end of 1988 pending decisions as to the scope and the organization of such a body.

Bill 114, An act modifying the Act respecting labour relations, professional training and manpower management in the construction industry, was also adopted in December 1987,. The act lengthened the negotiation period in the construction industry, therefore changing the period for changes in union allegiance to make it coincide with the onset of negotiations. The act has been in effect since December 18th, 1987,

In 1988, the construction industry underwent major change with the deregulation of the home renovation sector. As of June 17th, 1988, maintenance, repair, renovation and modification work undertaken by individuals on their residence in a non-profit-making capacity are no longer subject to the act and the decree. The decree no longer applies therefore to the whole of the industry. Furthermore, as of January 1st, 1989, artisans are no longer allowed to work on job sites falling under the scope of the construction decree.

CHARACTERISTICS OF THE PRESENT SYSTEM

For nearly 50 years, the labour relations system in the construction industry has been based on the legal extension of collective agreements. Historically, this has brought about a centralization of labour relations and increasing intervention by the state. The present system is characterized by:

1. a sectorial, province-wide bargaining unit
2. union pluralism versus a single employer association,
3. the enforcement of the decree by a government agency.

Bargaining unit

The Act respecting labour relations, professional training and manpower management in the construction industry establishes a sectorial and provincial bargaining unit: this means there can only be one collective agreement for the entire Québec construction industry. Bargaining must therefore be province-wide and include all construction trades and contractors. On the one side, there are over 100,000 employees in the 23 regulated trades and 30 specific occupations and on the other, there are 17,000 active employers in the Québec construction industry.

The negotiating parties

The Act respecting labour relations, professional training and manpower management in the construction industry explicitely names the associations that have the right to represent workers and contractors in the negotiation of the collective agreement.

On the management side, there is only one association, the AECQ, to which all contractors must adhere. The make-up of its 30-member board of directors provides for the representation of different sectors of the industry, allowing for regional representation and representation by sector and size of firm.

On the union side, five associations are recognized by law. They are the Centrale des syndicats démocratiques (CSD) the Centrale des syndicats nationaux (CSN-Construction), the Conseil provincial du Québec des métiers de la construction (CPQMC), the Fédération des travailleurs de Québec (FTQ-Construction) and the Syndicat de la construction de la Côte-Nord (SCN). The representativeness of these associations is established through a vote by secret ballot: construction workers are asked to vote eleven months prior to the expiry of the decree. The following table gives the results of the November 1987 vote:

1987 vote results

CSD	9.6%
CSN Construction	16.9%
CPQMC	31.3%
FTQ Construction	40.9%
SCN	1.3%
TOTAL	100%

Since no one association represents the majority of employees, a coalition must be formed in order to ensure a level of representativeness of over 50%. However, any association representing at least 15% of employees may be present at the bargaining table and submit its proposals.

Application of the decree

Once the Government has adopted the construction decree, legalizing the working conditions negotiated by the parties, the Commission de la construction du Québec oversees its application in order to maintain coherent and uniform working conditions all over the province.

In order to fulfill its mandate, the CCQ inspects the books and visits the construction sites. The CCQ also organizes the union vote and certifies the representativeness of the different associations.